

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

EMILE BOUARI,

Plaintiff

v.

UNITED STATES OF AMERICA, et al.,

Defendants

Case No.: 2:21-cv-01974-APG-DJA

**Order Granting Federal Defendants’
Motion to Dismiss for Failure to Timely
Serve**

[ECF No. 56]

Defendants United States of America, the Department of Justice, the Federal Bureau of Investigation, Troy Eid, Kimberly Frayn, and Dennis Lao (the “Federal Defendants”) move to dismiss plaintiff Emile Bouari’s claims against them on a variety of grounds, including failure to timely serve them. They argue that Bouari has not properly served any of them because he has never served the United States under Federal Rule of Civil Procedure 4(i)(1), and service on the United States is required to properly serve the United States, its agencies, and its officers. The Federal Defendants argue that Bouari has been told multiple times what he must do to complete service and the time to do so has long since passed because he filed the original complaint in 2021. They thus contend he should not be given another opportunity.

Bouari responds that he is a pro se litigant and he has tried to serve the defendants but has had difficulties locating and serving the individuals. He appears to argue that the service attempts he has made should be good enough given his diligence in prosecuting this case.

I grant the Federal Defendants’ motion to dismiss because Bouari has not timely and properly served any of them. Under Federal Rule of Civil Procedure 4(c) and (m), a plaintiff must serve each defendant with a summons and a copy of the complaint within 90 days of filing the complaint. If the plaintiff does not serve a defendant within 90 days, “the court—on motion

1 or on its own after notice to the plaintiff—must dismiss the action without prejudice against that
2 defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). If “the
3 plaintiff shows good cause for the failure, the court must extend the time for service for an
4 appropriate period.” *Id.*

5 To properly serve the United States, its agencies, or its officers, a plaintiff must serve the
6 United States under Rule 4(i)(1) by serving the United States attorney for the district where the
7 action is brought and the Attorney General of the United States at Washington, D.C. by the
8 means set forth in that rule. Fed. R. Civ. P. 4(i)(1)-(3). Bouari has been directed to Rule 4 and
9 the need to serve the local U.S. Attorney’s Office and the United States Attorney General, but he
10 has presented no evidence that he has done so or even attempted it. *See* ECF Nos. 30; 33. Even
11 after the Federal Defendants filed this motion, Bouari apparently has made no effort to serve the
12 United States. He has shown no good cause to extend the service deadline, which has long since
13 expired, so I grant the motion to dismiss.

14 I THEREFORE ORDER that defendants United States of America, the Department of
15 Justice, the Federal Bureau of Investigation, Troy Eid, Kimberly Frayn, and Dennis Lao’s
16 motion to dismiss (**ECF No. 56**) is **GRANTED**. Plaintiff Emile Bouari’s claims against
17 defendants United States of America, the Department of Justice, the Federal Bureau of
18 Investigation, Troy Eid, Kimberly Frayn, and Dennis Lao are dismissed without prejudice for
19 failure to timely serve them.

20 DATED this 23rd day of August, 2023.

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23 ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE